

Application Serial No.: 10/044,923
Attorney Docket No.: 042846-0313083
Reply to Office Action

REMARKS

By this paper, claim 50 is cancelled without prejudice and without disclaimer. No claims are amended or added. Accordingly, claims 1-49 are all of the claims currently pending. In light of the foregoing amendment and the following remarks, allowance of all of the pending claims is anticipated.

Claim Rejections Under 35 U.S.C. § 101

Claim 50 stands rejected under 35 U.S.C. § 101 as allegedly being drawn to non-statutory subject matter. Applicants traverse this rejection as being improper. However, in an effort to expedite prosecution, Applicants have cancelled claim 50 without prejudice and without disclaimer.

Double Patenting

Claims 1-50 stand provisionally rejected on the ground of non-statutory double patenting over claims 4, 5, 19, 20, 23, and 24 of co-pending U.S. Patent Application No. 10/044,914. The Examiner has indicated, however, that claims 1-49 would be allowable upon filing of a terminal disclaimer.

Although Applicants disagree with the rejection set forth by the Examiner, a terminal disclaimer is filed herewith solely in an effort to expedite prosecution. Applicants further note that the filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d (BNA) 1392 (Fed. Cir. 1991). The court indicated that the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection."

Accordingly, the allowance of claims 1-49 is earnestly sought.

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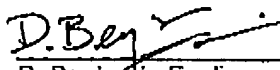
CONCLUSION

Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the Office Action and, as such, the claims are in condition for allowance. Notice to that effect is respectfully requested. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Dated: January 4, 2007

Respectfully submitted,

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